

REMARKS

By the above amendments, claims 1 and 7 are revised, claims 3 and 9 are canceled, and new claims 13-16 are added to place this application in immediate condition for allowance. Currently, claims 1, 2, 4-8, and 10-16 are before the Examiner for consideration on their merits.

First, claim 7 is revised to address the two informalities noted in the Office Action.

Second, claim 3 is canceled and incorporated into claim 1 and claim 9 is likewise canceled and incorporated into claim 7. By these two changes, it is submitted that the prior art rejection is overcome as applied to independent claims 1 and 7.

Third, each of claims 1 and 7 are revised to further limit the second clause of each claim to somewhat parallel the added subject matter incorporated from claims 3 and 9, respectively.

Fourth, new independent claims 13 and 15 are added to accept the indication that claims 5 and 11 also contain patentable subject matter. Claim 13 is the combination of claims 1 and 5 with claim 15 being the combination of claim 7 and 11. Claims 14 and 16 parallel original claims 6 and 12 but are dependent on new claims 13 and 15 respectively.

Lastly and addressing the rejection of claims 1-6 based on 35 U.S.C. § 101, the only claims at issue would be claim 1 (original 1 and original 3) and claim 13 (original

1 and original 5). The rejection is based on the contention that there is no tangible result claimed.

Applicant respectfully traverses the rejection of claims 1 and 13 on the grounds that, in fact, a tangible result is obtained, when practicing the method of the claims at issue. In review, claim 1 is concerned with detecting surface defects on the neck of a container. The inventive method requires the steps of illuminating the neck ring, arranging a sensor to collect a light beam reflected by the surface defect, rotating the container, and processing the light beam to create an image, and analyzing the image for the presence of a defect. Applicants dispute that the creating of the image and analyzing step does not constitute a tangible result.

In fact, the PTO's own guidelines, cited on page 3, part b. of the action are instructive in resolving this issue. These guidelines focus on the final result not the steps to be taken. The final result in claim 1 is the creation of an image and its analysis to determine the presence of a defect in the inspected portion of the container. Implicit in the claim language by the creation of the image is the final result, either the image shows a defect or it does not and this is the very aim of the invention. To require the claim to have some other step such as output the analysis or display the analysis or use the analysis to do something with a defective container to be statutory places form over substance. This type of approach fails to take consider the language and aim of the invention, i.e., practice a number of steps to create an image, from which a defect can be ascertained with an analysis of the image. This by itself

produces a result, i.e., defect identification, and this alone is sufficient to meet the requirements of 35 U.S.C. § 101.

Applicant strenuously submits that claims 1 and 13 are within the purview of 35 U.S.C. § 101 as providing a useful, concrete, and tangible result and the rejection must be withdrawn in this regard.

To summarize, the revisions to the claims and arguments above have resolved all of the issues identified in the Office Action. Specifically, the informalities noted in the claims have been corrected and the rejection under 35 U.S.C. § 101 has been shown to be made in error. The prior art rejection has been mooted by the incorporation of claim 3 into claim 1 and the incorporation of claim 9 into claim 7. New independent claims 13 and 15 are also patentable since they respectively combine the allowable subject matter of claim 5 into claim 1 and claim 11 into claim 7.

Accordingly, the Examiner is requested to examine this application in light of the changes made above and pass all pending claims onto issuance.

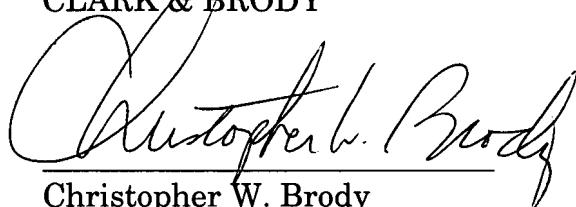
If the Examiner believes that an interview would be helpful in expediting the allowance of this application, the Examiner is requested to telephone the undersigned at 202-835-1753.

The above constitutes a complete response to all issues raised in the Office Action dated February 26, 2007.

Again, reconsideration and allowance of this application is respectfully requested.

A check in the amount of \$100.00 is enclosed to cover the additional independent claim charge. While it is submitted that no other fees required for this submission, however, please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Respectfully submitted,
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